
To: Real Estate Department Partners

Notice: **RED-12-20**

From: Real Estate Department- Compliance and Asset Management

Date: April 13, 2012

Re: Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity

In honor of Fair Housing Month, IHCD wants to ensure that all its partners are aware of the recent HUD final rule entitled "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity." This final rule was published in [Federal Register Vol. 77, No. 23, Page 5662](#) on Friday February 3, 2012 and went into effect on March 5, 2012.

According to this final rule:

HUD-assisted and HUD-insured entities must make housing available without regard to actual or perceived sexual orientation, gender identity, or marital status. See amendment at 24 CFR Part 5.105(a)(2)(i).

HUD-assisted and HUD-insured entities are prohibited from inquiring about the sexual orientation or gender identity of applicants and occupants for the purpose of determining eligibility for housing or otherwise making housing available. See amendment at 24 CFR Part 5.105(a)(2)(ii).

The definition of "family" at 24 CFR Part 5.403 is amended to include persons "regardless of actual or perceived sexual orientation, gender identity, or marital status."

The list of definitions at 24 CFR Part 5.100 is amended to include definitions for "sexual orientation" and "gender identity."

Sexual orientation is defined as "homosexuality, heterosexuality, or bisexuality."

Gender identity is defined as "actual or perceived gender-related characteristics."

In the discussion located in the Federal Register, HUD states that "a violation of the program requirements established in this rule will be handled in the same manner that violations of other program requirements are handled" and the participant will be "subject to all sanctions and penalties for violation of program requirements."

30 S. MERIDIAN ST. SUITE 1000 - INDIANAPOLIS, IN 46204 - [HTTP://IHCDA.IN.GOV](http://ihcda.in.gov)

P: 317.232.7777 - F: 317.232.7778 - TF: 800.872.0371



EQUAL OPPORTUNITY EMPLOYER AND HOUSING AGENCY

State of Indiana
Lieutenant Governor
Rebecca S. Skillman



It should be noted that the new rule does not create additional protected classes under civil rights laws, including the federal Fair Housing Act. Sexual orientation and gender identity are still not identified as protected classes under the Fair Housing Act. However, HUD has issued [guidance on its website](#) explaining situations in which discrimination based on sexual orientation and gender identity may be covered by the Fair Housing Act's protected classes of sex and disability.

Questions about this final rule or other Fair Housing related items can be directed to:

Anika Davis- Compliance Auditor
Jeff Ivory- Senior Compliance Auditor
George McMannis- Compliance Auditor
Matt Rayburn- Compliance and Asset Manager
Mike Recker- Senior Compliance Auditor
Devyn Smith- Compliance Auditor

